

Article - Health - General

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§19–347.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Abuse” means the non–therapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce or resulting in mental or emotional distress.

(ii) “Abuse” does not include the performance of an accepted medical procedure that a physician orders.

(3) “Law enforcement agency” means the Department of State Police or a police agency of a county or municipal corporation.

(b) (1) A person who believes that a resident of a related institution has been abused shall report promptly the alleged abuse to an appropriate law enforcement agency and the Office of Health Care Quality in the Department.

(2) A report:

(i) May be oral or written; and

(ii) Shall contain as much information as the reporter is able to provide.

(3) (i) Unless the administrator is the alleged abuser, a recipient of a report promptly shall notify, to the extent allowed by federal and State law, the administrator of the related institution.

(ii) If the Office of Health Care Quality receives a report under paragraph (1) of this subsection, the Office promptly shall notify the Long–Term Care Ombudsman Program established under § 10–902 of the Human Services Article.

(c) Any employee of a related institution who is required to report alleged abuse under subsection (b) of this section, and who fails to report the alleged abuse within 3 days after learning of the alleged abuse, is liable for a civil penalty of not more than \$1,000.

(d) (1) Unless otherwise provided, the law enforcement agency, with the assistance of the Secretary, shall:

- (i) Investigate thoroughly each report of an alleged abuse; and
 - (ii) Attempt to ensure the protection of the alleged victim.
- (2) The investigation shall include:
 - (i) A determination of the nature, extent, and cause of the abuse;
 - (ii) The identity of the alleged abuser; and
 - (iii) Any other pertinent fact or matter.
- (3) Within 10 working days after the completion of the investigation, the law enforcement agency shall submit a written report of its findings to:
 - (i) The State's Attorney;
 - (ii) The Secretary;
 - (iii) The local long-term care ombudsman entity, as defined in § 10-901 of the Human Services Article;
 - (iv) Unless the administrator is the alleged abuser, the administrator of the related institution; and
 - (v) The Office of Health Care Quality of the Maryland Department of Health.
- (e) The law enforcement agency:
 - (1) Shall refer to the Secretary for investigation reported instances of abuse involving any persistent course of conduct intended to produce or resulting in mental or emotional distress; and
 - (2) May refer to the Secretary for investigation reported instances of patient-to-patient abuse.
- (f) Within 10 working days after the completion of an investigation under subsection (d) of this section, the Secretary shall submit a written report of its findings to:
 - (1) The State's Attorney;

(2) The local long-term care ombudsman entity, as defined in § 10-901 of the Human Services Article; and

(3) Unless the administrator is the alleged abuser, the administrator of the related institution.

(g) A person shall have the immunity from liability described under § 5-631 of the Courts and Judicial Proceedings Article for:

(1) Making a report under this section;

(2) Participating in an investigation arising out of a report under this section;

(3) Participating in a judicial proceeding arising out of a report under this section; or

(4) Participating in transferring, suspending, or terminating the employment of any individual who is believed to have abused or aided in abusing a resident under this section.

(h) (1) The Department shall provide each related institution with signs that set forth the reporting requirements under this section.

(2) The related institution shall post the signs conspicuously in the employee and public areas of the related institution.

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